

(b) For the purposes of this section:

Damages incurred by the seller or lessor means actual damages resulting from the default or breach, as determined by the law of the jurisdiction governing the contract. However, no damages may be specified in the contract or agreement, except a liquidated damages clause not exceeding 15 percent of the purchase price of the lot, excluding any interest owed.

Purchase price means the cash sales price of the lot shown on the contract.

(c) The contractual requirements of 15 U.S.C. 1703(d) do not apply to the sale of a lot for which, within 180 days after the signing of the sales contract, the purchaser receives a warranty deed or, where warranty deeds are not commonly used, its equivalent under State law.

[61 FR 13598, Mar. 27, 1996]

§ 1715.5 Reimbursement.

If a purchaser exercises rights under 15 U.S.C. 1703(b), (c) or (d), but cannot reconvey the lot in substantially similar condition, the developer may subtract from the amount paid by the purchaser, and otherwise due to the purchaser under 15 U.S.C. 1703, any diminished value in the lot caused by the acts of the purchaser.

[61 FR 13598, Mar. 27, 1996]

Subpart B—Sales Practices and Standards

§ 1715.10 General.

Sales practices means any conduct or advertising by a developer or its agents to induce a person to buy or lease a lot. This subpart describes certain unlawful sales practices and provides standards to illustrate what other sales practices are considered misleading in light of certain circumstances in which they are made and within the context of the overall offer and sale or lease.

§ 1715.15 Unlawful sales practices—statutory provisions.

The statutory prohibitions against fraudulent or misleading sales practices are set forth at 15 U.S.C. 1703(a). With respect to the prohibitions against representing that certain facilities will be provided or completed

unless there is a contractual obligation to do so by the developer:

(a) The contractual covenant to provide or complete the services or amenities may be conditioned only upon grounds that are legally sufficient to establish impossibility of performance in the jurisdiction where the services or amenities are being provided or completed;

(b) Contingencies such as acts of God, strikes, or material shortages are recognized as permissible to defer completion of services or amenities; and

(c) In creating these contractual obligations developers have the option of incorporating by reference the Property Report in effect at the time of the sale or lease. If a developer chooses to incorporate the Property Report by reference, the effective date of the Property Report being incorporated by reference must be specified in the contract of sale or lease.

[61 FR 13598, Mar. 27, 1996]

§ 1715.20 Unlawful sales practices—regulatory provisions.

In selling, leasing or offering to sell or lease any lot in a subdivision it is an unlawful sales practice for any developer or agent, directly or indirectly, to:

(a) Give the Property Report to a purchaser along with other materials when done in such a manner so as to conceal the Property Report from the purchaser.

(b) Give a contract to a purchaser or encourage him to sign anything before delivery of the Property Report.

(c) Refer to the Property Report or Offering Statement as anything other than a Property Report or Offering Statement.

(d) Use any misleading practice, device or representation which would deny a purchaser any cancellation or refund rights or privileges granted the purchaser by the terms of a contract or any other document used by the developer as a sales inducement.

(e) Refuse to deliver a Property Report to any person who exhibits an interest in buying or leasing a lot in the subdivision and requests a copy of the Property Report.

(f) Use a Property Report, note, contract, deed or other document prepared